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## NEW MEXICO ENVIRONMENT DEPARTMENT

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BUTCH TONGATE  
Cabinet Secretary

J. C. BORREGO  
Deputy Secretary

### **Certified Mail - Return Receipt Requested**

January 24, 2018

Mr. Esmail Panahi, President  
Banes General Contractors, Inc.  
El Paso, Texas 79932

**Re: CarMax Auto Superstore West Coast, Construction Stormwater; SIC 1522; NPDES Compliance Evaluation Inspection; NPDES #NMU001957; January 3, 2018**

Dear Mr. Panahi:

Enclosed please find a copy of the report and check list for the referenced inspection that the New Mexico Environment Department (NMED) conducted at your facility on behalf of the U.S. Environmental Protection Agency (USEPA). This inspection report will be sent to the USEPA in Dallas for their review. These inspections are used by USEPA to determine compliance with the National Pollutant Discharge Elimination System (NPDES) permitting program in accordance with requirements of the federal Clean Water Act.

Introduction, detailed site observations, and findings noted during this inspection are discussed in the "NPDES Construction General Permit" section of the inspection report.

You are encouraged to review the inspection report, required to correct any problems noted during the inspection, and advised to modify your operational and/or administrative procedures, as appropriate. If you have comments on or concerns with the basis for the findings in the NMED inspection report, please contact us (see the address below) in writing within 30 days from the date of this letter. Further, you are encouraged to notify in writing both the USEPA and NMED regarding modifications and compliance schedules at the addresses below:

Robert Houston  
US Environmental Protection Agency, Suite 1200  
Enforcement Branch (6EN-WS)  
1445 Ross Avenue  
Dallas, Texas 75202-2733

Sarah Holcomb, Program Manager  
New Mexico Environment Department  
Surface Water Quality Bureau  
Point Source Regulation Section  
P.O. Box 5469  
Santa Fe, New Mexico 87502

If you have any questions about this inspection report, please contact Daniel Valenta at 505-827- 2575 or at [daniel.valenta@state.nm.us](mailto:daniel.valenta@state.nm.us).

Sincerely,

*/s/Sarah Holcomb*

Sarah Holcomb  
Program Manager  
Point Source Regulation Section Surface  
Water Quality Bureau

cc: Carol Peters, USEPA (6EN-WM) by e-mail  
David Long, USEPA (6EN-WM) by e-mail  
Robert Houston, USEPA (6EN) by e-mail  
Darlene Whitten-Hill, USEPA (6EN) by e-mail  
Nancy Williams, USEPA (6EN-WC) by e-mail  
David Esparza, USEPA (6EN-WM) by e-mail  
Amy Andrews, USEPA (6EN-WM) by e-mail  
Robert Italiano, NMED District II by e-mail  
Marco Martinez, Banes General Construction, by e-mail



Form Approved  
OMB No. 2040-0003  
Approval Expires 7-31-85

## NPDES Compliance Inspection Report

### Section A: National Data System Coding

Transaction Code	NPDES	yr/mo/day	Inspection Type	Inspector	Fac Type
1 N 2 5 3 N M U 0 0 1 9 5 7 11 12 1 8 0 1 0 3 17 18 }				19 S 20 2	
Remarks					
C O N S T R U C T I O N > 1 A C R E					
Inspection Work Days	Facility Evaluation Rating	BI	QA	Reserved	
67 69	70 1	71 N	72 N	73 74 75	80

### Section B: Facility Data

Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number)  CarMax Auto Superstores West Coast, Inc. 6820 Cerrillos Road, Santa Fe, 87507  Santa Fe County	Entry Time /Date 1003/1-3-2018	Permit Effective Date 2-16-2017
	Exit Time/Date 1120/1-3-2018	Permit Expiration Date 2-16-2022
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s)  Mr. Marco Martinez/Project Engineer/Superintendent/505-469-6987 Mr. Hector Vasquez/Superintendent/ 505-948-0945	Other Facility Data  LAT 35.6222 N  LONG -106.027 W  SIC 1522	
Name, Address of Responsible Official/Title/Phone and Fax Number  Mr. Esmail Panahi, 6001 Doniphan, El Paso, Texas 79932/ President/ 915-584-0404 fax 915-584-2432	Contacted Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	

### Section C: Areas Evaluated During Inspection (S = Satisfactory, M = Marginal, U = Unsatisfactory, N = Not Evaluated)

U	Permit	N	Flow Measurement	M	Operations & Maintenance	N	CSO/SSO
U	Records/Reports	N	Self-Monitoring Program	N	Sludge Handling/Disposal	N	Pollution Prevention
M	Facility Site Review	N	Compliance Schedules	N	Pretreatment	N	Multimedia
N	Effluent/Receiving Waters	N	Laboratory	U	Storm Water	N	Other:

### Section D: Summary of Findings/Comments (Attach additional sheets if necessary)

1. Banes General Contractors, Inc. did not have permit coverage at the time of the inspection.
2. Please see further explanations for details.

Name(s) and Signature(s) of Inspector(s)  Daniel Valenta /s/Daniel Valenta	Agency/Office/Telephone/Fax  NMED/SWQB 505-827-2575	Date  1/23/2018
Signature of Management QA Reviewer  Jennifer Foote /s/Jennifer Foote	Agency/Office/Phone and Fax Numbers  NMED/SWQB 505-827-2637	Date  1/23/2018

**Banes General Contractors, Inc**  
**NMU001957**  
**January 3, 2018**

**Further Explanations**

**Introduction**

On January 3, 2018 a Compliance Evaluation Inspection (CEI) was conducted by Daniel Valenta of the NMED SWQB accompanied by Sandra Gabaldon. The site is 5 acres located at 6820 Cerrillos Road, Santa Fe, New Mexico 87507. Banes General Contractors, Inc. are the Contractor for a new CarMax Auto Superstore. The project broke ground in October 2, 2017 and construction is estimated to be complete October 19, 2018. The project owner is CarMax Auto Superstore West Coast, Inc.

Banes began business in 1946 as a Design-Build Firm and was one of the first General Contractor / Engineering Firms to provide turnkey Design-Build and Construction Management Services. Today, Banes General Contractors, Inc. is the oldest and one of the largest General Contractors in the southwest. Banes' projects are located throughout the southwest in Texas, New Mexico and Arizona. Today Banes generates approximately \$50 million in annual gross revenue and works across numerous sectors.

An entrance interview was conducted at the site with Mr. Hector Vasquez, Superintendent, and Mr. Marco Martinez, Project Engineer/Superintendent, at approximately 1010 on January 3, 2018. The inspector made introductions, presented his credentials and discussed the purpose of the inspection. A brief exit interview to discuss the preliminary findings of the inspection was conducted at the site with Messrs. Vasquez and Martinez at approximately 1120 on January 3, 2018. This report is based on a review of the EPA online notice of intent (eNOI) database, review of files maintained by NMED, readily available on-line aerial photographs, on-site observation by NMED personnel, and verbal information provided by the site representative.

Discharge from this site may flow into the city of Santa Fe MS4 stormwater drain on the west side of the project or from the east side and thus to Arroyo Chamisos to Arroyo Cienega and thus to the Santa Fe River in the Rio Grande Basin (20.6.4.113 NMAC). The designated uses for this segment are irrigation, livestock watering, wildlife habitat, primary contact and cold-water aquatic life. The Santa Fe river in this segment has a TMDL for SBD (sedimentation/siltation), DO, pH, and chlorine.

**Clean Water Act and Permit Requirements**

Section 301 (a) of the Federal Water Pollution Control Act states that *"Except as in compliance with this section and sections 302, 306, 307, 318, 402 and 404 of this Act, the discharge of any pollutant by any person shall be unlawful."*

Per 40 CFR Part 122.26, storm water discharges associated with construction activity are required to obtain coverage under an NPDES permit. Large construction activity is defined in 40 CFR Part 122.26(b) (14) (x), as follows: *"Construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Construction activity also includes the disturbance of less than five acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more."*

**Banes General Contractors, Inc**  
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Beginning on February 16, 2017 storm water discharges associated with construction activities that will disturb one or more acres of land, or will disturb less than one acre of land but are part of a common plan of development or sale that will ultimately disturb one or more acres of land; or have been designated by EPA as needing permit coverage under 40 CFR 122.26(a)(1)(v) or 40 CFR 122.26(b) (15) (ii). Permit coverage is required from the “commencement of construction activities” until “final stabilization” as defined in Appendix A of the USEPA’s 2017 Construction General Permit (CGP).

The 2017 CGP, Definitions, Appendix A, states, “Operator” – for the purposes of this permit and in the context of stormwater discharges associated with construction activity, any party associated with a construction project that meets either of the following two criteria:

1. The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications (*e.g. in most cases this is the owner of the site*); or
2. The party has day-to-day operational control of those activities at a project that are necessary to ensure compliance with the permit conditions (*e.g., they are authorized to direct workers at a site to carry out activities required by the permit; in most cases this is the general contractor of the project*).

This definition is provided to inform permittees of EPA’s interpretation of how the regulatory definitions of “owner or operator” and “facility or activity” are applied to discharges of stormwater associated with construction activity. Subcontractors generally are not considered operators for the purposes of this permit.

**Per the 2017 CGP 1.4.3 Deadlines for Submitting Your NOI and Your Official Date of Permit Coverage**

***Table 1 NOI Submittal Deadlines and Official Start Date for Permit Coverage.***

<b>Type of Operator</b>	<b>NOI Submittal Deadline<sup>7</sup></b>	<b>Permit Authorization Date<sup>8</sup></b>
<b>Operator of a new site</b> ( <i>i.e., a site where construction activities commence on or after February 16, 2017</i> )	At least 14 calendar days before commencing construction activities.	14 calendar days after EPA notifies you that it has received a complete NOI, unless EPA notifies you that your authorization is delayed or denied.
<b>Operator of an existing site</b> ( <i>i.e., a site with 2012 CGP coverage where construction activities commenced prior to February 16, 2017</i> )	No later than <b>May 17, 2017</b> .	

**Findings**

- Banes General Contractors, Inc. did not have permit coverage under the 2017 Construction General Permit. Construction activities started on October 2, 2017.
- No SWPPP was available for review.

**NMED/SWQB  
Official Photograph Log**

Photo # 1

Photographer: Daniel Valenta	Date: January 3, 2018	Time: 1003 hours
City/County: Santa Fe/ Santa Fe County		
Location: 6820 Cerrillos Road, Santa Fe, New Mexico		
Subject: Construction site for the new CarMax Auto Superstore		



**NMED/SWQB  
Official Photograph Log**

Photo # 2

Photographer: Daniel Valenta	Date: January 3, 2018	Time: 1045 hours
City/County: Santa Fe/ Santa Fe County		
Location: 6820 Cerrillos Road, Santa Fe, New Mexico		
Subject: Construction site for the new CarMax Auto Superstore		





**NMED/SWQB  
Official Photograph Log**

Photo # 3

Photographer: Daniel Valenta	Date: January 3, 2018	Time: 1050 hours
City/County: Santa Fe/ Santa Fe County		
Location: 6820 Cerrillos Road, Santa Fe, New Mexico		
Subject: Concrete washout leaking onto the ground.		





**NMED/SWQB  
Official Photograph Log**

Photo # 4

Photographer: Daniel Valenta	Date: January 3, 2018	Time: 1115 hours
City/County: Santa Fe/ Santa Fe County		
Location: 6820 Cerrillos Road, Santa Fe, New Mexico		
Subject: Soil disturbance up to the edge of the Arroyo Chamisos. The project had an 404 permit to operate within the Arroyo Chamisos.		

